

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5018 of 1998

with

CIVIL APPLICATION No 8067 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

PARVATIBEN WD/O VALJIBHAI JETHABHAI BHANUSHALI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR HD CHUDASAMA for Respondents

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

Date of decision: 29/04/99

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

Admit. Service of notice is waived by Mr H.D.Chudasama for the respondents. Upon joint request, the matter is taken up today for final hearing.

The sole contention which has been adjudicated before us, in this appeal under section 173 of the Motor Vehicles Act, 1988 is, as to whether the amount of compensation awarded by the Tribunal to the tune of Rs.3,85,000/- with interest at the rate of 10 per cent per annum from the date of application till payment, on account of rash and negligent driving of the driver of the ST bus which had culminated into the death of one Valjibhai Bhanusali, who was the earning member of the family and who was aged about 48, was just and reasonable or not. The deceased died leaving four children, a widow and parents. The unfortunate accident took place on 24.1.89 at about 8.15 a.m. near Khatraj four roads near Mehmedabad when ST bus No.GRT-7863 dashed against the scooter of the deceased who sustained serious injuries and succumbed to the same.

The deceased was a partner of Bhanusali Trading Company running at Mehmedabad and he was earning Rs.60,000 per annum. The share of the deceased in the partnership firm was 40 per cent. He had also agricultural properties and he was earning Rs.15,000 per annum.

Upon analysis and appraisal of the evidence before the Tribunal, the Tribunal found that the deceased, who was riding on a scooter, was violently knocked down by the bus driver. The Tribunal also found that considering the income tax return and the books of accounts of the partnership firm, the deceased was earning an amount of Rs.4200 per month. After deducting his expenses from the income of the deceased, the dependency value is assessed at Rs.2800/- and the Tribunal has adopted the multiplier of 10, as a result of which the Tribunal awarded an amount of Rs.3,60,000/- ($2800 \times 12 \times 10$). The conventional amount and other expenditure is worked out at Rs.25,000 and therefore, total amount came to Rs.3,85,000/-.

In our opinion, an amount of Rs.20,000/-, in the facts and circumstances and the evidence on record, appears to be higher. Therefore, that much amount is required to be deducted from the amount awarded by the Tribunal. Rest of the directions contained in the final order of the Tribunal, except with regard to disbursement of the awarded amount, would remain unchanged and uninfluenced. Original claimant No.1, widow of the deceased, was directed to be paid 40 per cent of the amount by way of account payee cheque and remaining 60 per cent was ordered to be deposited in FDR. In our opinion, considering the peculiar facts and circumstances and the latest proposition of law propounded on this scope, ends of justice will be satisfied if 90 per cent of the amount

of award is directed to be deposited in Fixed Deposit Receipt in any nationalised bank in the name of the original claimant No.1, widow of the deceased, for a period not less than five years and the interest which shall accrue therefrom, periodically, shall be payable to to her upon due verification. Remaining ten per cent of the amount shall be paid by an account payee cheque by the Tribunal.

In view of the aforesaid facts and circumstances, the evidence on record and our discussion, this appeal is partly allowed and the awarded amount of Rs.3,85,000/impugned before us is reduced to Rs.3,65,000 (Rupees three lacs sixtyfive thousand only). The award shall stand modified as aforesaid. The appellant-original opponent ST Corporation is directed to deposit full amount as per our order before the Tribunal within a period of four weeks from today and it will be open for the Tribunal to pass order for disbursement in terms of the directions contained hereinabove.

Office is directed to transmit the amount of Rs.25,000/- deposited before this court, upon verification, to the Tribunal concerned for the purpose of disbursement.

No order on the Civil Application.

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(vjn)